



**HOME BUILDERS ASSOCIATION OF CONNECTICUT, INC.**  
1245 FARMINGTON AVENUE, 2<sup>nd</sup> Floor, WEST HARTFORD, CT 06107  
Tel: 860-521-1905 Fax: 860-521-3107 Web: [www.hbact.org](http://www.hbact.org)

*Your Home  
Is Our  
Business*

March 1, 2010

To: Senator Ed Meyer and Representative Richard Roy, Co-Chairs, and members of the Environment Committee

From: Bill Ethier, CAE, Chief Executive Officer

Re: RB 123, AAC Preserving Natural Vegetation Near Wetlands and Watercourses

**The HBA of Connecticut is a professional trade association with 1,100 member firms statewide, employing tens of thousands of Connecticut citizens. Our members are residential and commercial builders, land developers, home improvement contractors, trade contractors, suppliers and those businesses and professionals that provide services to our diverse industry. We estimate that our members build 70% to 80% of all new homes and apartments in the state.**

**We strongly oppose RB 123 as we have done for the past four years. It unnecessarily expands the jurisdiction of local wetland commissions to control more activity on private property. Its language is vague and confusing and creates more uncertainty not needed by private property owners, business, housing and economic development. The bill defies science and destroys all sense of balance with property rights and the economic needs of society. This bill is a job killer and it is an astounding act of piracy that support of this bill and RB 205 are on the 2010 legislative agenda of the CT Green Jobs Coalition.**

**RB 123 is an unnecessary expansion of local wetland authority because:**

- 1. The way CT defines wetlands creates a built-in regulatory barrier to most harm that could come to truly well-functioning and valuable wetlands. The definition of wetlands in CT is already the most expansive definition in the nation. The federal definition of wetlands under sec. 404 of the U.S. Clean Water Act has generated much controversy and is the subject of much debate and litigation nationally. Yet, CT's definition of wetlands under our state statute covers more than twice the land area of the federal definition.**
- 2. The existing inland wetlands and watercourses act already works to protect our rivers and streams. UConn's CLEAR office has produced statewide research showing the development cover trends in riparian areas of 100 and 300 feet next to watercourses. While there are some issues with the research methodology, the research shows there has been little increase in development cover in the 100 feet next to the state's watercourses.**
- 3. The existing law is extremely broad in scope and local wetlands agencies have consistently demonstrated their willingness and ability to aggressively use current law to deny and restrict regulated activities near wetlands and watercourses. Even the CT Council on Environmental Quality acknowledges this by stating on January 4, 2010, "Connecticut's inland wetlands appear to be**

well protected by most cities and towns, but improvements should be made in two specific areas. This was the conclusion of the Council ... when it examined the latest wetlands data at a recent meeting.” The two areas the Council identified for improvement are the training of local wetlands commissions and their reporting of permit approvals to DEP, neither of which are addressed by RB 123 or 205.

**RB 123 creates new vague language that will disrupt current understanding of the already very protective law. It creates more control over private property affecting not just new development but also all tens of thousands of existing home owners who may want to do something in their own backyards.** The new definition of natural upland vegetation is unclear. Does “naturally occurring shrubs, trees or other plants” include naturally occurring invasive species that perhaps should be removed? Does it mean a tree or a shrub in someone’s backyard cannot be cut or even trimmed without getting permission from the local wetlands agency? Section 3 says “when considering an application for a proposed regulated activity, a municipal inland wetlands agency shall not allow the destruction of natural vegetation ....” Does this mean you can cut all natural vegetation if it’s not connected to a regulated activity? Does the exclusion of “lawns or manicured grass areas” from naturally occurring plants mean that landscaped areas with bushes, ornamentals or other human planted vegetation are considered, somehow, to be natural and, therefore, cannot be cut or trimmed without a permit? What about vegetable or flower gardens? Section 3 appears to provide an exemption for existing residential uses for building decks, outbuildings, etc. but no exemption for other activities, such as cutting a tree or a shrub. How does that make any sense? In section 2, the agricultural exemption in the act now appears to allow cultivating soil and planting crops but you cannot harvest crops. How does this make any sense? **As with prior year bills, RB 123 is so poorly worded it will create tremendous litigation that will be borne by municipalities and private property owners.** Environmental advocates may enjoy the melee the bill will produce but this bill does not serve the state well.

**The bill erroneously assumes a presumption of protection that is devoid of science or balance.** Not all wetlands are created equal. Especially because of the way CT defines wetlands, many so-called wetlands in CT provide little, if any, environmental value or other functions typically attributed to wetlands. A 100 foot no-activity buffer next to these biologically unproductive and valueless “wetlands” will not accomplish any environmental goals and makes no sense. **The bill also substantially changes the applicability of the feasible and prudent alternatives analysis** under the law by requiring one even if there is no adverse impact from a proposed activity, contrary to current law where it is required only after a showing of a potential adverse impact.

**RB 123’s expansion of regulatory jurisdiction and uncertainty is not only unjustified but also destructive of any hope of changing this state to one that welcomes economic activity.** Its annual introduction into the legislature has and continues to send a strong message to investment capital and economic development to get out of Connecticut. Please pursue another course and more important environmental needs.

We strongly urge you to not pass RB 123. Thank you for the opportunity to comment on this legislation.